SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 388

CITY OF CORAL GABLES, a Municipal Corporation Organized and Existing under the Laws of The State of Florida,
Petitioner,

vs.

ED C. WRIGHT, Doing Business as Ed C. Wright & Company, Successor to Ed C. Wright & Company, Inc., and AMERICAN NATIONAL BANK OF NASHVILLE, TENNESSEE, a National Banking Corporation,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

PRELIMINARY STATEMENT

It is not necessary, for the purpose of this brief, to point out the several inaccuracies and omissions in

Petitioner's statement of the matter involved, because it is apparent that Petitioner merely seeks another hearing for the purpose of asking this Court to review the evidence, and inferences drawn from it by the Circuit Court of Appeals.

ARGUMENT

Petitioner's Brief purports to set out a resume of the evidence below, and to again argue the merits of the cause as presented to and argued before the Circuit Court of Appeals. By so arguing, it is apparent that Petitioner, as the losing party below, is merely seeking another hearing on the same issues. In final analysis, Petitioner desires the Court to again review the evidence and inferences drawn therefrom. Such is not the function of the Court.

"A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor." 6 Cyc. Fed. Proc. § 2757. Where, as here, Petitioner merely seeks another review of the evidence in the light of the contentions presented to the Circuit Court of Appeals, no special and important reason for such review is presented.

In **Magnum Import Co. v. D. Spoturno Coty**, 262 U.S. 159, the Court said:

> "• • • jurisdiction to issue writs of certiorari was not conferred to give the defeated party in the Circuit Court of Appeals another hearing."

Again, in **General Talk. Pictures Corp. v. Western El. Co.**, 304 U.S. 175, the Court stated:

> "Granting of the writ would not be warranted merely to review evidence or inferences drawn from it."

It affirmatively appears from Petitioner's Brief that Petitioner is merely seeking another hearing to review the facts found by the Circuit Court of Appeals, the evidence, and inferences drawn therefrom. The so-called importance of the questions presented by the Petition, other than to the litigants, thus disappears (**Southern Power Co. v. North Carolina Public Service Co.**, 263 U.S. 508), in that the Petitioner contends a decision herein is dependent on findings of fact.

It is respectfully submitted that the Petition should be denied.

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